D.B. CIVIL SPECIAL APPEAL(W)NO.64/2007

Kulwant Singh Gill
Vs.
State & Ors.

Date of Order :: 22-01-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE GOVIND MATHUR

Shri K.S. Yadav, for the appellant.

By the order impugned, the learned Single Judge vacated the interim order dated 16.10.2003 by which order of the State Government dated 6.9.2003 had been stayed. By the said order dated 6.9.2003 the appellant had been placed under suspension on account of pendency of criminal case under Sections 7 and 13(i)(b) and (2) of the Prevention of Corruption Act and Section 120B of the Indian Penal Code.

It is well settled that while passing interim order, the Court should refrain from passing any order which may have the effect granting the main relief. The effect of the order of 16.10.2003, in the instant case obviously was restoration of the post to the appellant which could not be done without adjudication by an interim order. May be, as submitted by the counsel, the respondents did not file any reply nor application for vacating stay but having regard to the nature of the interim order, we are satisfied that the order was not in accordance

with law, and therefore the learned Single Judge did not commit any error in vacating the same.

We find no merit in this appeal which is accordingly dismissed.

[GOVIND MATHUR],J. [S.N.JHA],CJ.

Praveen